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PHOENIX, ARIZONA

December 14, 1966

DEPARTMENT OF LAW LETTER OPINION NO. 67-4-L (R-12)

REQUESTED BY: DR. J.N. RONEY,
Chairman, Structural
Pest Control Board

QUESTION: Does the Registrar of
Contractors have the right
to require of structural
pest control operators
licensed under §32-2325 a
C-35 license in order to
operate?

ANSWER: No.

The answer to your question is based upon statutory interpretation of legislative law and intent. The Registrar of Contractors' authority stems from Ch. 10, Title 32, A.R.S., 1956 as amended.

A.R.S. §32-1101, Definition of contractor

"* * * The term contractor includes subcontractors and specialty contractors."

A.R.S. §32-1102, Classification of Contractors; definitions

"* * *

3. Specialty contracting. Specialty contractor is a contractor whose opera-

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tions as such are the performance of construction work requiring special skill and whose principal contracting business involves the use of specialized building trades or crafts * * *

In accordance with the above definitions and pursuant to A.R.S. §32-1104 and §32-1105 the Registrar of Contractors classified contractors adopting Rule 2, (A) originally on December 30, 1952. Rule 2(A) lists among "Specialty Contractor"

"C-35 Pest Control (Structural)"

It might be noted, no other specific reference or definition is made of structural pest control within Chapter 10, Title 32.

The Structural Pest Control Board was established through Ch. 22, Art. 1 to 3, inclusive, added by laws of 1965, Ch. 97, §1 signed by the Governor on April 19, 1965, and filed with the Secretary of State on April 20, 1965.

Section 32-2325, Exemptions from contractors license

"Persons, partnerships, corporations or associations licensed under the provisions of this chapter shall be exempt from the provisions of Title 32, Ch. 10 to the extent that the licensee is engaged in the activities of structural pest control." Added Laws, 1965, Ch. 97, §1.

It is patently clear, the Legislature specifically

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and succinctly intended those licensed by the Structural Pest Control Board to be exempt from a contractor's license, if in fact, engaged in the activities of structural pest control. Thus, a legislative act repealed and nullified prior legislation regarding the same subject matter. In 82 C.J.S. §368, Conflicting Statutes, we find the following comment.

"* * * apparently conflicting statutes should be so construed as to reconcile the conflict, if possible by reasonable construction. If however, there is an unreconcilable conflict, the latest act will control, or will be regarded as an exception to, or qualification of, the prior statute."

"Generally, if there is a conflict between different statutes as to the same matter, the later statute has been held to prevail." Beck v. Groe, 245 Minn. 28, 70 N.W.2d 886, 52 A.L.R.2d 875.

"Where special provisions of statute deal with the same subject as a general statute, the special provisions prevail." Knape v. Brown, 86 Ariz. 158, 342 P.2d 195 reaffirmed by Enloe v. Baker, 94 Ariz. 295, 383 P.2d 748.

"Insofar as provisions of special statute are inconsistent with those of general statute on same subject, the special statute will control. The general statute remains applicable, however, to all matters not dealt with in the specific statute

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Statutes in pari materia should be read together and harmonized if at all possible."
Desert Waters, Inc. v. Superior Court, 91
Ariz. 1963, 370 P.2d 652.

In conclusion thereof and in specific response to your question, the Registrar of Contractors does not have the right to require structural pest control operators to have a C-35 license in order to operate. This opinion is based on §32-2325 as such section does, in effect, provide exemption for the Registrar of Contractors' authority and licensing powers to persons licensed under this section.

Respectfully submitted,

Darrell F. Smith

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DFS:md

Opinion Citator 67-4-L

A.G. Opinion No. 77-15

A.G. Opinion No. 77-59